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INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE ELECTORS

**Initiative Constitutional Amendment Relating to County and City Civil Service
and Making Merit System of Appointment Thereto Mandatory.**

The undersigned, registered and qualified electors of the State of California, hereby propose an amendment to the Constitution adding section 21 to Article XI of the Constitution of the State of California.

STATE OF CALIFORNIA, }
County (or City and County) of..... } ss.

TO THE HONORABLE, THE SECRETARY OF STATE OF THE STATE OF CALIFORNIA:

We, the undersigned, registered and qualified electors of the State of California, and residents of.....
....., County (or City and County) of.....,
present to the Secretary of State this petition and hereby propose and request that an amendment to the Constitution be submitted to the electors of the State of California, for their adoption or rejection at the next succeeding general election or at any special election called by the Governor prior to such general election, adding section 21 to Article XI of the Constitution of the State of California.

The Attorney General has entitled and summarized the chief purpose and points of the proposed measure as follows:

**COUNTY AND MUNICIPAL CIVIL SERVICE. Initiative. Adds
Section 21 to Article XI, Constitution. Requires appointment to
county, district and municipal offices and employments be based on
integrity, character, merit, fitness and industry. Excepts certain speci-
fied positions and those now excepted from such system in specified
charters. Provides for county civil service commissions, empowered to
provide qualified persons for appointments within county, including
cities therein having no commission. Prohibits dismissals except for
cause after hearing. Prohibits appointees under system from partici-
pating in county, city or district political activity. Continues specified
officers and employees in office, placing them under system.**

The proposed amendment to the Constitution is here set forth in full as follows:

A new section, to be numbered 21 and to read as follows, is hereby added to Article XI of the Constitution of the State of California:

SECTION 21.

1. Every county, city and county and city office and employment, whether the county, city and county or city be chartered or not, and every office and employment of every political subdivision of each county, city and county and city, including townships and boroughs, except only offices or employments hereinafter excepted, shall be within the scope, effect and benefit hereof and shall be filled by appointment solely on the basis of integrity, character, merit, fitness and industry, which shall be determined solely as hereinafter provided. Every officer and employee whose entire compensation is paid out of county, city and county or city funds shall, for the purposes hereof, be deemed to be one of the officers or employees of the county, city and county or city paying him. Every person is prohibited from using or promising or attempting to use directly or indirectly his influence or official authority to secure the appointment of anyone to an office or employment within the scope or effect hereof and from interfering directly or indirectly with any such appointment, except as herein provided for.

2. The following offices, employments, officers or employees shall not be within the scope, effect or benefit hereof: (a) those engaged in work financed in whole or part by Federal funds, and whose selection is, therefore, subject to requirements of the Federal government; (b) offices and employments expressly excluded or permitted to be excluded, on the effective date hereof, by the charters of the City and County of San Francisco, the Counties of San Diego, Los Angeles and Alameda and the Cities of San Diego, Los Angeles, Long Beach, San Ber-

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nardino, Bakersfield, Fresno, Sacramento, Oakland and San Jose from the respective merit systems of appointment established by said charters; (c) offices and employments of or within each county with a population of less than 1000, and of each city with a population of less than 1000, as ascertained, in every case, by the latest census taken under the authority of the Congress of the United States; (d) officers and employees, not appointive by city, city and county or county officers or employees, of districts and quasi-municipal or public corporations formed for purposes other than governmental; (e) officers and employees of districts and quasi-municipal or public corporations whose jurisdiction or functions embrace territory in more than one county; (f) physicians, dentists and attorneys at law, performing only duties appertaining to their respective professions, but not when filling administrative or executive positions, for which professional status is only part of the qualifications; (g) internes, student nurses and officers and employees receiving no compensation; (h) institutional inmate help whose compensation, including the value of all allowances to them, is less than \$40.00 each per month; (i) precinct election officers, freeholders and officers charged with legislative functions, including supervisors, aldermen, trustees and councilmen; (j) the mayor or other executive head of each city and not to exceed one secretarial employee in the mayor's office, appointed by him to assist him to perform the duties peculiar to his office; (k) the county, city or business manager or executive of each county or city; (l) judicial officers, jurors and temporary officers and employees appointed by courts in the course of, and in connection with, judicial proceedings before them, but not public administrators; (m) officers charged with the duties of district attorney, county counsel, public defender, city attorney or city prosecutor; (n) assessors for taxation purposes, but not when their offices are combined with other offices, and not subordinates of assessors; (o) members of all boards and commissions of whatever character, and the chief executive officer or employee of each appointive board or commission, except civil service commissions; (p) employees engaged on construction work outside the county or city employing them, in so far as their respective employments are exempted herefrom by vote, after public hearing on notice, of all members of the civil service commission having jurisdiction, and temporary professional employees on any construction work, in so far as their respective employments are so exempted herefrom; every such exemption may be revoked by majority vote of such commission; (q) persons temporarily appointed (with the consent, after similar hearing, of all members of the civil service commission having jurisdiction) to make or conduct a temporary, special inquiry, investigation, audit, appraisal or examination, or to establish an accounting system, provided the commission on making any such exemption specify the period, during which the exemption may last; (r) superintendents of schools and their deputies and administrators, supervisors, principals, teachers, counselors, librarians, registrars and all other members of the teaching staff in the public school system; (s) special examiners appointed by a civil service commission for specific examinations. Any of the foregoing excepted offices or employments may be included by charter or applicable state statute within the scope, effect and benefit hereof. County officers or employees retained or appointed in conformance herewith may, without further compliance herewith, perform duties of city offices or employments, and vice versa, if authorized so to do by other applicable law. All public school employments and employees, except those mentioned in exception (r), shall be within the scope, effect and benefit of this section, subject only to exceptions (a), (c) and (f).

3. The words, "office", "employment", "officer" and "employee", wherever hereinafter used, shall always refer, respectively, except when a more extended meaning is clearly indicated, only to offices, employments, officers and employees within the scope, effect and benefit hereof. The following words, wherever used herein, shall have the following respective meanings, unless otherwise indicated. "Office" and "employment" include offices and employments hereafter created as well as those now existing. "Charter" and "chartered" refer to a freeholders charter. "Commission" and "commissioner" mean, respectively, civil service commission and civil service commissioner. "Commission" and "civil service commission" include, when appropriate, every charter-established commission or other agency authorized, on the effective date hereof, to perform any of the duties hereby imposed on civil service commissions. "Commission having jurisdiction" means the commission authorized to certify eligibles to the office or employment involved. "City" includes only incorporated cities and towns. "Merit system of appointment" means a system whereunder appointments are made from eligible lists established on the basis of fitness impartially determined by a commission through competitive tests, except as to unskilled laborers. Words in the masculine include the feminine. Whenever notice is required by this section, the notice shall be given for not less than ten days, and, unless required to be delivered or mailed, shall be posted conspicuously in the public office of the agency required to give the notice, and shall comply with all requirements of charter or other applicable law.

4. There shall be, and, when one does not otherwise exist, there is hereby established, a commission of three members in each county with a population of 1000 or more. The Board of Supervisors of each such county, unless it have a charter otherwise providing for appointment of a county commission, shall, before January 11, 1937, appoint by affirmative vote of four-fifths of the Board's members the three members of the commission for that county, and they shall so classify themselves by lot that one shall serve until the second Monday in January, 1940, at noon, one until the second Monday in January, 1943, at noon, and one until the second Monday in January, 1946, at noon. After the second Monday in November of each third year after 1936 and before the second Monday in January of each third year after 1937, said Board shall appoint, by similar vote, one

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person to serve for nine years as the successor of the member of the commission, whose term will then expire. Any vacancy on the commission shall be filled, within sixty days, for the unexpired term by said Board by similar vote. Members of each Board failing to appoint commissioners before expiration of the respective time limitations in this paragraph specified shall never be paid any compensation for any public service rendered subsequent to the expiration of such time limitations, respectively, and while commissioners remain unappointed by such Board.

5. No appointment of a commissioner shall be valid, unless ten days prior thereto, the appointing power give public notice of the name of the contemplated appointee. Every board of supervisors and every supervisor and every other officer or agency authorized to appoint a commissioner is prohibited from interfering or attempting to interfere directly or indirectly with the performance of a commission's duties, and from obtaining or attempting to obtain directly or indirectly from any person any agreement whatsoever as to how he will perform any of the duties of a commissioner, except an agreement to comply with the letter and spirit hereof. Hereafter no person shall be appointed a commissioner within one year of his holding any office, including that of committeeman, in any political party; and no commissioner may, while a commissioner, or for one year thereafter, hold any other public office or any public employment other than offices and membership in the National Guard of California and the reserve military or naval forces of the United States. The preceding sentence shall be subject, however, to every charter provision in effect on the effective date hereof, making any officers or employees, whether within or without the scope or effect hereof, ex officio commissioners. Every person is prohibited from seeking, directly or indirectly, appointment as a commissioner, from attempting, directly or indirectly, except at a public hearing held by the appointing power, or by written communication open to public inspection, to cause the appointment of any person as a commissioner, and from appointing or agreeing to appoint anyone commissioner in consideration of past or future political activity. The preceding sentence does not prohibit objection being made in any manner to the appointment of anyone as a commissioner. Every person who, prior to the effective date hereof and subsequent to April 1, 1936, has done, or on whose behalf or with whom has been done, any act which would have been prohibited by this paragraph, if this section had been in effect during said period, shall be ineligible to appointment or service as a commissioner. Every person hereafter appointed commissioner shall, before taking office, make, sign and file in the office of the clerk of the county, city and county or city, as the case may be, the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I am opposed to appointments to the public service as a reward for political activity or for any reason other than merit impartially determined and will execute the office of civil service commissioner (or corresponding office) in the spirit of this oath (or affirmation) and in the spirit of section 21, Article XI of the Constitution of California, and all law adopted pursuant thereto." Further qualifications of commissioners may be fixed by charter or applicable state statute.

6. Written charges of official misconduct, specific as to time, place and circumstance, may be filed with the Board of Supervisors of each county against any county commissioner for that county. A copy of such charges and notice of the time and place of public hearing thereon shall be served on the accused at least ten days before the hearing, at which the accused may defend himself personally or by counsel. If, after such hearing and the introduction of substantial evidence thereat in support of the charges, they be voted sustained by four-fifths of the members of the Board, the commissioner thereby shall be removed from office as commissioner.

7. This section, except paragraph 5, shall not have any effect on the number of members of a commission, the time and mode of their appointment, their terms of office or their removal therefrom, in so far as any charter provides therefor.

8. Each commission having an executive officer or employee may delegate to him any of its powers and duties except as to rules and imposition of penalties. Each commission may contract with any other commission, and each commission and the State Personnel Board may contract with each other, for performing any duties of the commission except as to rules and imposition of penalties. It is the policy of this state that, so far as is reasonable under conditions as to population, the administration of this section be directed, under the commissions, by persons trained in the selection of competent public personnel. Commission meetings, except for consideration of tests, shall be public. A commission's rules on the subject of this section shall have the force and effect of law and shall be limited only by this Constitution as hereby amended and charter or applicable state statutes conforming herewith. The Board of Supervisors of each county shall appropriate for the use of the commission of that county such funds as may be necessary to enable that commission to perform its duties. Every commission shall file annually with the State Personnel Board a report of the commission's operations during the preceding year. Said Board shall preserve such reports, and they shall be open to public inspection during office hours.

9. Offices and employments may be classified and reclassified by charter or applicable state statute and, subject thereto, by rules of the commission having jurisdiction. Any citizen having the qualifications prescribed by this Constitution, charter or applicable state statute and by the commission establishing a list of eligibles for appointment to offices or employments or any thereof may submit himself for consideration for inclusion on

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the list, under the conditions established by the commission. Methods for ascertaining integrity and comparative character, merit, fitness and industry may be established by charter or applicable state statute and, subject thereto, by rules of the commission having jurisdiction. All tests given by a commission shall be competitive, but citizens, after qualifying physically, may be placed on an eligible list for unskilled labor according to the priority of their respective applications. A commission may require all candidates to pass a physical examination and/or athletic test as a condition precedent to further consideration, and may fix a qualifying mark for each portion of a test and bar candidates failing to attain any such mark from participating further in the test. The commission shall place on each list of eligibles, in the order of their relative excellence determined as herein provided, the names of the candidates who have attained the passing mark fixed by the commission for inclusion on the list, or the commission may limit the list to a designated number of candidates with the highest ratings, and such candidates shall rank on the list according to their relative excellence as so determined. The commission may make higher offices and employments exclusively promotional by test from lower ranks and shall do so whenever practicable. This section shall be subject to every veteran, veteran's wife or veteran's widow preference established by law.

10. Names shall remain on an eligible list for three years and shall then be void thereon and removed therefrom. This paragraph is subject to every charter provision bearing on the subject of this paragraph.

11. Every officer and employee, the appointing authority for whom is not now or hereafter otherwise provided for, shall be appointed, as to city offices and employments, by the city council or other governing body of the city, and, as to all other offices and employments in a county, by the Board of Supervisors of the county in which the offices or employments exist. The appointing authority may delegate the power of appointment to any officer or employee within or without the scope or effect of this section. Every officer and employee shall be appointed by an officer, employee or other agency, within or without the scope or effect hereof, of the county (or of a city therein) within which exists the office or employment to which the appointment is made.

12. Each city and county or city commission shall provide qualified persons for appointment to the service of the commission's city and county or city, as the case may be, and to public school employments within such city and county or city, as the case may be. Each county commission shall provide qualified persons for appointment to all other offices and employments of or within the commission's county, including those of every city therein having no commission. Whenever an office or employment is to be filled, the appointing authority shall make a requisition for an eligible on the commission having jurisdiction. Requisition for an office or employment, the compensation of which is paid by a county and a city having a commission, shall be made to the commission of the greater contributor to the compensation, or, if the contributions be equal, to the commission of the county. The commission shall, in response to each requisition, certify to the appointing authority the name and address of the person, then physically fit and of the sex specified in the requisition, standing highest on the eligible list for the office or employment. Such certification shall be subject, however, to law and commission rules with regard to waiver or refusal or failure to respond.

13. Every appointee to a permanent office or employment shall be on probation for six months, during which the appointing authority may with the consent of the certifying commission terminate the appointment, and, if it be not then terminated, it shall be permanent, subject to the provisions hereof and charter or applicable state statute conforming herewith. Permanency of office or employment may be defined by charter or applicable state statute and, subject thereto, by rule of the commission having jurisdiction.

14. When a list of eligibles is not available for an office or employment, it may be filled temporarily only by an officer or employee retained or appointed pursuant hereto or charter conforming herewith, or by the highest eligible on an existing eligible list for another classification. No such temporary appointment shall be considered in determining subsequent ratings for the office or employment; and no person may be compensated for services under such temporary appointment or appointments, for more than sixty days in the aggregate in one fiscal or calendar year; and no office or employment may be filled by such temporary appointment or appointments for more than sixty days in the aggregate in one fiscal or calendar year. If a catastrophe make it imperative to employ persons without compliance herewith, each such person may be employed for not exceeding fifteen days in any one fiscal or calendar year without compliance herewith, and any longer employment of him without compliance herewith shall be void. This paragraph shall be subject to every provision of charter or applicable state statute providing for employment of indigents to be paid out of extraordinary relief funds.

15. Every officer and employee, whether within or without the scope or effect hereof, of each county, city and county and city is prohibited from paying, auditing or approving any compensation to any person for services in any office or employment, unless a payroll or account be first prepared containing the name of such person, the amount of his compensation and the title of his office or employment, and bearing the certificate of the commission having jurisdiction or its executive officer or employee, that such person has been lawfully appointed to such office or employment. Every officer and employee, whether within or without the scope or effect hereof, shall be liable to the county, city and county or city employing him, personally and on his official bond, at the suit of

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a taxpayer or otherwise, for the amount of every disbursement approved, audited or made by such officer or employee with notice that it involves a violation, no matter when committed, of this section, and for interest on such disbursement and all expenses of suit.

16. Every officer and employee shall retain his office or employment, so long as it exists under the same or a different title, during good behavior, and shall not be suspended, fined, demoted, removed, reduced in compensation as a punishment or otherwise penalized, except as in this paragraph provided. This paragraph is subject, however, to every provision of this Constitution, charter and applicable state statutes designating a general ground or general grounds of forfeiture of office or employment, or imposing a criminal liability. No person who has served the probationary period in a permanent office or employment, as hereinabove provided for, shall be removed therefrom or penalized therein except on written charges, specific as to time, place and circumstance, and after opportunity to be heard in his defense, personally or by counsel. Pending such hearing, the appointing authority may suspend the accused for not more than thirty days, unless the hearing be delayed beyond that time by act of the accused. A copy of the charges and written notice of the time and place of hearing shall be given the accused personally or shall be mailed to him at his last known address, not less than ten days before the hearing. If he fail to appear thereat, he may be dismissed without further proceedings. If he appear at the time and place set, the appointing authority shall publicly hear and determine the charges, and may exonerate, reprimand, fine, suspend, demote or dismiss the accused, with right of written appeal by him within thirty days to the commission having jurisdiction. Such commission may make such decision on appeal as may appear to the commission to be just, and its order, except for bad faith or lack of evidence, shall be final. The commission having jurisdiction shall hear and act on every signed written complaint, specific as to time, place and circumstance, filed against an officer or employee, if his appointing authority refuse or fail to act on the matter complained of, and the commission shall have the same power in the premises as on an appeal. Any penalty herein provided for may be imposed for incompetence, habitual intemperance, immoral conduct, insubordination, repeated discourteous treatment of the public, dishonesty, conviction of a felony, inattention to duties, engaging in prohibited political activity, or other ground of penalty or forfeiture specified by this Constitution, charter or applicable state statute. The appointing authority may, for disciplinary purposes and without trial or right of appeal, suspend without salary an officer or employee for not more than thirty days in any one fiscal or calendar year. Nothing herein shall restrict the right to make bona fide reductions in force or to enact legislation requiring retirement for disability or age. This paragraph shall be subject to every charter provision in effect on the effective date hereof, prescribing a method for removal of persons holding offices or employments within the merit system of appointment established by such charter, and to provisions of charters or applicable state statutes providing, on the basis of seniority of service, for layoffs and resulting demotions, when there is a reduction of force.

17. No reference may be made in establishing any eligible list to, and, subject to paragraph 19 hereof, no officer or employee may be discriminated against or penalized because of, political or religious opinions or affiliations or fraternal affiliations.

18. Provision may be made by charter or applicable state statute for the effect on incumbents of consolidation of, alteration in the boundaries of or annexation or exclusion of territory to or from counties, cities and counties or cities, and of consolidation or division of offices or employments or transfer of the duties thereof, and for the retention, without compliance with the provisions hereof, of the personnel of public utilities hereafter acquired by a county, city and county or city, or of the personnel of a county or city, whose population increases to or above 1000.

19. No commissioner, officer, employee or person on an eligible list shall, beyond casting his vote and privately expressing his opinion, take any part in any campaign for election or appointment of any county, city and county, city or district officer or employee, whether within or without the scope or effect hereof.

20. Every person who, on November 3, 1936, and continuously for one year immediately prior thereto, held an office or employment shall be deemed to be appointed thereto pursuant to the provisions hereof and shall be governed and protected hereafter in such office or employment by the provisions hereof. Every person who, within five months prior to April 3, 1936, and within thirty days prior to November 3, 1936, held an employment which was intermittent during the year immediately prior to November 3, 1936, because of the nature of the work or lack of funds, and who, during said year, worked and was paid under such employment for at least one hundred work-days of customary length, according to the custom of the employing county or city, shall be deemed to be appointed pursuant to the provisions hereof to such employment, if and as it is continued or renewed, with the same rights with regard thereto as those guaranteed by the preceding sentence, but without diminution in theretofore existing powers of the appointing authority with regard to layoffs for lack of work or funds; provided, however, that every such intermittent employee shall have priority of right to every employment (under the city or county which so employed him) of the same kind as the employment so held by him, over all persons not within the scope, effect or benefit of this paragraph. Every person who, for the two seasons immediately prior to, and within two years of, November 3, 1936, was employed in a seasonal office or

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employment shall hereafter have the right to be reappointed seasonally to the seasonal office or employment so held by him, and to be governed and protected hereafter in such seasonal office or employment by the provisions hereof; all rights hereunder to a seasonal office or employment shall cease, if it be discontinued for two consecutive years. Every other person who, on November 3, 1936, and continuously for six months immediately prior thereto, held an office or employment shall, until expiration of the six months immediately following said date, hold his office or employment on and subject to probation, as herein provided for. No person holding any office or employment under the city and county or any of the counties or cities named in exception (b) paragraph 2 hereof shall be within the scope, effect or benefit of this paragraph.

21. The provisions hereof shall be self-executing. They establish minimum requirements for appointment to offices and employments. Charter provisions and other law, not in conflict with this Constitution as hereby amended, shall be continued in force, subject to repeal or amendment, and charter provisions and state statutes, not in conflict with this Constitution as hereby amended, may be enacted, adopted, amended or repealed to supplement this section, to carry out its intent, to facilitate its operation, to provide details in and regulations for the merit system of appointment by this section established, or to prevent evasions hereof. This section shall be liberally construed to effect its purposes but not to limit any power of creating, prescribing the duties or compensation of, or abolishing or temporarily discontinuing in good faith, offices or employments. Every person who wilfully or through culpable negligence violates any provision of this section shall be guilty of a misdemeanor, and, upon final conviction thereof, shall, in addition to any other penalty, be ineligible to hold any public office or employment in this state. It shall be the duty of every district attorney, upon notice thereof, to prosecute every violation of this section occurring in his county. Every grand jury shall have plenary power without subjection to any provision hereof to investigate the operations of every commission within the county of the grand jury. Every appointment involving any violation hereof shall be forever void.

22. Every provision, conflicting herewith in any particular, of this Constitution and of other law is repealed.